

The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Mental Health
25 Staniford Street
Boston, Massachusetts 02114-2575

DEVAL L. PATRICK
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MEMORANDUM

To: Interested Parties
From: Barbara A. Leachholm, M.S., M.B.A., Commissioner
Date: November 19, 2009
Re: Policy #09-01 Tobacco Free Campus

Attached to this memo is a new DMH Policy #09-01 that implements the Executive Office of Health and Human Services Order Establishing Tobacco Free Campuses. This policy replaces DMH Policy #98-5.

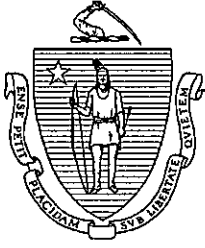
The goal of this policy is to promote a healthy and safe environment for all by reducing the use of tobacco products.

Effective Monday, December 7, 2009, all DMH operated facilities and programs, sites, offices, and property will be tobacco free. Temporary waivers from this prohibition have been approved for a specified list of state operated residential programs. In addition to prohibiting the use of tobacco products on DMH property, the policy includes notification and compliance requirements.

All users (i.e., DMH employees, contractors, clients, visitors) of DMH property are required to abide by this policy and should familiarize themselves with its requirements.

The policy also requires DMH-contracted vendors who operate program or service sites for DMH clients off DMH property to develop their own tobacco use policies consistent with this policy.

Thank you for your attention to this important policy.



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DMH POLICY

Title: Tobacco Free Campus

Policy #: 09-01

Date Issued: November 19, 2009

Effective Date: December 7, 2009

Approval by Commissioner:

11-19-2009

Signature: Barbara A. Leadholm, M.S., M.B.A.

Date:

I. PURPOSE

This policy prohibits smoking and the use of Tobacco Products by employees, contractors, Clients, volunteers, and visitors while on Department of Mental Health (DMH) Property. Very limited waivers of this prohibition are described in Paragraph IV.F. The goal of this policy is to promote a healthy and safe environment for all by reducing:

- the use of Tobacco Products;
- exposure to second-hand smoke;
- the risk of fire hazards; and

- the potential costs of employee absenteeism, medical care, and liability from workers' compensation claims and lawsuits.

This policy implements the Executive Office of Health and Human Services Order Establishing Tobacco Free Campuses, dated September 28, 2009, (EOHHS Order) and the Smoke-Free Workplace Law, M.G.L. c.270, §22.

This policy replaces Policy #98-5.

II. SCOPE OF POLICY

This policy applies to all users of properties owned or leased by DMH or otherwise under the control of DMH (i.e., DMH employees, contractors, Clients, visitors). Properties include, but are not limited to, all DMH offices, and DMH-operated facilities and programs. It also applies in a limited extent to DMH-contracted vendors who operate program or service sites for DMH clients off DMH Property in accordance with Section IV.H.

III. DEFINITIONS

Administrator-in-Charge: The DMH Workforce Member with administrative responsibility for an Area, Site, DMH-operated facility or program. The Administrator-in-Charge for Central Office is the Commissioner.

Client: A user of services provided by DMH and/or one of its vendors.

DMH Property: All buildings and land owned, leased or operated by or under the control of DMH, including but not limited to, entrance ways, sidewalks, patios, parking lots, garages, and other grounds; vendor operated programs located on DMH property; and any vehicles owned, leased or under the control of DMH.

Facility: An inpatient hospital, unit or bed, operated by DMH, including all DMH-operated units at Department of Public Health hospitals.

Tobacco Products: Any product that contains tobacco including, but not limited to, cigarettes, cigars, pipe tobacco, chewing tobacco, snuff, and nicotine delivery products used as alternative tobacco products, such as e-cigarettes. Nicotine replacement products, which are devices approved by the FDA for use as smoking cessation products, such as gum, patches and oral medication, are exempt from this definition.

Vendor Site: Any building or portion thereof used by a program or service operated by a vendor under contract with DMH that serves DMH Clients, excluding vendor operated programs or services located on a DMH Property.

IV. POLICY

A. Prohibition of the Use of Tobacco Products on DMH Properties

1. Except as otherwise specified in Section IV.F, the use of Tobacco Products in any form is prohibited on all DMH Properties. This includes the use of Tobacco Products in private vehicles while on DMH Property.
2. Except as otherwise specified in Section IV.F, the use of Tobacco Products is prohibited in all buffer zones that surround a DMH Property that are established by DMH in accordance with Section IV.E.
3. The prohibition of use of Tobacco Products applies to all individuals who are on DMH Property, including but not limited to DMH employees, contractors, Clients, volunteers, and visitors. It also applies to all individuals or companies or other entities using space at DMH under a license or other agreement.
4. Individuals are expected to be respectful of the properties and roadways adjacent to DMH Properties by not discarding any waste products associated with tobacco use onto roadways, sidewalks, or other private or public property.

B. Possession of Tobacco Products on Inpatient Units. Tobacco Products are not permitted on any inpatient unit in a Facility.

C. Prohibition of the Use of Tobacco Products During Activities Supervised by DMH Inpatient Staff. Use of Tobacco Products off DMH Properties is prohibited during group or individual inpatient activities supervised by a DMH inpatient staff member.

D. Sale and/or Distribution of Tobacco Products on DMH Property. The sale and/or distribution of Tobacco Products is not permitted on any DMH Property.

E. Buffer Zones.

1. The Administrator-in-Charge of a DMH Property, or designee, with minimal or no surrounding grounds, such as those in urban areas, shall establish, to the extent possible, a Tobacco Product free buffer zone of at least twenty feet from all exterior doors, windows and walls on any buildings utilized by DMH employees, contractors, clients, volunteers and visitors. Use of any Tobacco Products shall be highly discouraged within any buffer zone which is created.

2. If a DMH Property is a leased property located in a building with other occupants that are not EOHHS agencies and tobacco use is permitted on the property so that it is not possible to establish buffer zones as described in Section IV.E.1, the applicable Administrator-in-Charge shall discuss, and if possible work, with the landlord, property manager and other occupants to establish the necessary buffer zones and/or to make the entire property a Tobacco Product free property.
- F. DMH Property Temporarily Excluded from the Prohibition Pursuant to a EOHHS Waiver.** EOHHS may grant very limited waivers from the EOHHS Order to certain DMH Properties. A request for a waiver must be approved by the Commissioner. For the duration of a waiver, such DMH Properties may permit the use of Tobacco Products in a single designated outside area. To the extent possible, the designated area must be at least 20 feet from any exterior doors, windows and walls of the residential site. The designated area must be clearly marked and signs must be displayed at all entrances to the Property, in the designated area and other prominent locations to notify individuals that use of Tobacco Products is permitted only in the designated area and is otherwise prohibited on the Property. A list of DMH properties approved for waivers shall be maintained by the Office of Quality Management and Policy.
- G. Joint Policy for Properties Shared with other EOHHS Agencies.** If a DMH Property is (1) located on the property of another EOHHS agency; (2) co-leased with another EOHHS agency(ies); or (3) leased and located in a property occupied by another EOHHS agency(ies); the DMH Administrator-in-Charge of the DMH Property shall work with the other EOHHS agency(ies) to develop a single policy for the entire property to be used by all of the applicable EOHHS agencies. The policy must be consistent with the EOHHS Order and the Smoke-Free Workplace Law. If such a policy is developed, that policy shall supersede this policy as to use of Tobacco Products on that DMH Property. If such a policy is not developed, then this Policy shall continue to apply to the DMH Property.
- H. Vendors.** A vendor that operates a Vendor Site shall develop and implement a policy regarding the use of Tobacco Products for that Site. The policy must address employees, contractors, Clients, volunteers and visitors and must further the purposes set forth in Section I. In addition, the policy must comply with any applicable accreditation standards. If a Vendor Site is a residential site subject to 104 CMR 28.13(1)(a), the Vendor's policy must also comply with 104 CMR 28.14(2).
- I. Notifying Employees, Clients, Contractors, Volunteers and Visitors of DMH Properties being Tobacco Free.**
1. **DMH Property Posting Requirements.**

- a. Signs shall be used to designate DMH Properties as “tobacco-free” Properties. The Administrator-in-Charge of each DMH Property, or designee, shall ensure to the extent reasonable and practical that signs communicating this are clearly posted on the perimeter of the Property, at major vehicular and pedestrian entrances, the entrances of buildings and garages, reception desks, elevators, and outdoor places that were formerly smoking areas, and at other prominent locations. Signs will also be posted in all vehicles leased, owned or under the control of DMH.
- b. The Administrator-in-Charge of each DMH Property, or designee, shall also post at appropriate locations information regarding tobacco cessation services and possible health insurance coverage for those services. The postings developed by EOHHS which are available at <http://eohhs-web/smokefree.asp> may be used for this purpose.

2. Notifications to Employees and Volunteers.

- a. DMH Human Resources Liaisons shall ensure that all job postings contain information about DMH’s Tobacco-Free Policy.
- b. DMH Human Resources Liaisons shall ensure that a copy of this policy is provided to any new hire during orientation, including information to employees on tobacco cessation benefits and resources.
- c. Supervisors responsible for the recruitment and/or training of volunteers shall ensure that volunteers are informed of this policy.

3. Notification to Clients.

- a. **Facilities.** Each DMH Facility Director or designee shall ensure at the time of admission that all clients are notified of this policy, how it applies to them, and are provided information about tobacco cessation programs. Clients shall be offered tobacco cessation treatment consistent with the Facility’s clinical protocols.
- b. **Residential Services Located on DMH Properties.** Each Administrator-in-Charge or designee of a residential service located on a DMH Property shall ensure that clients receiving the service are notified of this policy, how it applies to them, and are provided information about tobacco cessation resources.

4. Notification to Contractors. Contracts involving any work to be performed on a DMH Property must include language indicating the extent to which the DMH Property is tobacco free. If services are acquired through a procurement

posted on Comm-PASS, this information shall be included in the Comm-PASS posting.

5. **Notifications to Licensees and Other Users of Space.** Licenses and other agreements allowing the use of DMH Property by third parties must include language that indicates the DMH Property is tobacco free.
6. **Internet and Intranet.** A copy of this policy shall be posted on DMH Internet Site and Intranet Site, together with information about tobacco cessation resources.

- J. **Employee Responsibilities for Compliance and Monitoring.** All DMH employees are responsible for monitoring the implementation of this policy. Employees shall respect all clients and others in their choices and treatment regarding tobacco cessation. If an employee observes an individual who the employee believes is violating this policy, the employee is authorized and encouraged to communicate the policy requirements to the individual with courtesy, respect and diplomacy. Alternatively the employee may notify his or her supervisor of the apparent violation. If the individual is the employee's supervisor, the employee may notify another supervisor.

Once notified of a violation, a supervisor should inform the person responsible for addressing the violation as specified below. Violations shall be addressed as follows:

1. **Employee.** The employee's supervisor must remind the employee of the requirements of this policy and should consider progressive disciplinary actions and referral to tobacco cessation resources.
2. **Client.** The client must be reminded of the requirements of this policy by one of the following individuals as applicable: a member of the client's treatment team, case manager or DMH service provider. The issue should be addressed through the client's Individual Service Plan, Individual Action Plan or treatment plan and referral to tobacco cessation resources should be considered.
3. **Contractor.** The DMH contract manager must remind the contractor of the requirements of this policy and may require a corrective action or take other appropriate action under the contract, including contract termination.
4. **Volunteer.** The DMH manager responsible for managing the volunteer must remind the volunteer of the requirements of this policy and should consider limiting or, if necessary, ending the volunteer opportunity for that individual.

5. **Visitor.** A DMH staff manager knowledgeable about the reason for the visitor being on the DMH Property must remind the visitor of the requirements of this policy. If a visitor refuses to comply with this policy, he or she may be asked to leave the DMH Property.

V. IMPLEMENTATION

Each Area Director must appoint a Tobacco Cessation Coordinator to facilitate ongoing implementation of this policy in his or her respective Area and to ensure Department wide consistency where possible. The Deputy Commissioner for Clinical and Professional Services is responsible for appointing a Tobacco Cessation Program Coordinator for Central Office.

The Tobacco Cessation Program Director, under the direction of the Deputy Commissioner for Clinical and Professional Services, is responsible for implementation of this policy, for coordinating the work of the Tobacco Cessation Coordinators and for establishing training and best practices.

Administrators-in-Charge or designees are responsible for ensuring that tobacco cessation programs, trainings, and policy enforcement are appropriate for his or her location.

Issues regarding the actual physical parameters of the tobacco free environment of a particular DMH Property shall be resolved by the applicable Administrator-in-Charge, or designee.

VI. POLICY REVIEW

This policy shall be reviewed annually. In the event that passage of any federal or state legislation or issuance of any administrative order has an impact on this policy, it shall be reviewed and revised as necessary. In addition, upon any changes to the EOHHS waiver referenced in Section IV.F., the policy shall be reviewed.